

STATE OF CALIFORNIA
THE RESOURCES AGENCY

RONALD REAGAN
Governor

NORMAN B. LIVERMORE, JR.
Administrator

Fourth Biennial Report
of the
STATE WATER RIGHTS BOARD

George B. Maul, *Chairman*
Ralph J. McGill, *Member*
William A. Alexander, *Member*
Leland K. Hill, *Executive Officer*



July 1, 1965–June 30, 1967

**BOARD MEMBERS AND PRINCIPAL
STAFF PERSONNEL ***

Chairman	George B. Maul †
Board Member.....	Ralph J. McGill
Board Member.....	W. A. Alexander
Executive Officer.....	Leland K. Hill
Chief Counsel.....	Gavin M. Craig
Senior Attorney.....	Luther H. Gulick
Senior Attorney.....	Mark C. Nosler
Senior Attorney.....	Muir J. Woolley
Chief Engineer.....	Lawrence C. Spencer
Supervising Engineer, Application and Permit Processing Section.....	David W. Sabiston
Supervising Engineer, Hearing and Special Studies Section.....	Lloyd D. Johnson
Supervising Engineer, License and Adjudication Section.....	John M. Page
Senior Engineer, Application and Permit Unit.....	Ernest M. Miller
Senior Engineer, License Unit.....	Stanley S. Skeeahan
Senior Engineer, Inventory and Modification Unit.....	Joseph N. Soderstrand
Senior Engineer, Adjudication and License Unit.....	Don E. Carroll
Senior Engineer, Los Angeles Office.....	Wilbert T. Chung
Senior Engineering Geologist.....	Alvin L. Franks
Accounting Officer	Eugene L. Klusman
Accountant.....	Byron F. Clark
Supervising Stenographer.....	Helen Nichols
Supervising File Clerk.....	Kathryn A. Holley
Senior Legal Stenographer.....	Carol Hewelcke
Senior Stenographer.....	Kay Pitcher
Senior Stenographer.....	Flora Okubo
Senior Stenographer.....	Laura P. Brew
Senior Stenographer.....	Eugenia McDowell
Senior File Clerk.....	Nancy Brown

* As of June, 1967.

† Kent Silverthorne served as Chairman through March 29, 1967.

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ORGANIZATION

The State Water Rights Board is a unit of the Resources Agency. The Board is composed of three members appointed by the Governor, subject to confirmation by the Senate, for partially concurrent four-year terms. Each member represents the State as a whole. One of the members is required to be a civil engineer registered under the laws of the State, one is required to be an attorney admitted to practice law in the State, and the third member is not required to have professional qualifications. The chairman of the Board is designated by the Governor.

Mr. George B. Maul, an attorney, was appointed to the Board as Chairman on March 30, 1967.

Mr. Ralph J. McGill was appointed to the Board February 14, 1958, and is now in his third term, which expires January 15, 1970. Mr. William A. Alexander, a civil engineer, was appointed April 10, 1961, and is now in his second term, which expires January 15, 1969.

A staff of engineering, legal, and administrative personnel under the direction of an executive officer assists the Board and provides services to the public in water right matters. As of June 30, 1967, with 91 authorized full-time positions, the Board members and staff consisted of 80 employees. A list of principal personnel of the State Water Rights Board precedes the table of contents, and an organization chart is shown at the end of this report.

The headquarters office is at Room 1140, Resources Building, 1416 Ninth Street, Sacramento.

An office is maintained in Los Angeles to provide service in water right matters to Southern California water users. This office is located at Room 7014, State Office Building, 107 South Broadway, Los Angeles. Recordation of ground water extractions and diversions in four southern counties is a major function of this office. Project investigations for license and adjudication work in the area are handled by the Los Angeles office to the extent possible by the limited staff.

Economy Measures Adopted

In compliance with the Governor's "squeeze, cut and trim" program requiring an over-all reduction of 10 per cent in the Board's budget, the Board adopted two principal economy measures. First among these was the elimination of 9.5 positions from the Board's authorized staff. Second, the Board's operating expense budget was reduced by approximately \$20,000.

For several years prior to July 1, 1967, the Board had not been staffed to full authorized strength. Several factors had contributed to this situation, foremost among them being shortage of qualified personnel and slightly declining over-all workload. When the budget cut became effective, all abolished positions were vacant and no layoff was necessary.

PROGRAM AND PERFORMANCE

Appropriation of Water Program

The Water Code declares that all water flowing in any natural channel not already appropriated or reasonably needed for beneficial uses on riparian lands is public water of the State and subject to appropriation. By court decision, water may be appropriated from artificial water courses under certain circumstances. The purpose of the Board in administering the law pertaining to appropriation of water is to further the orderly acquisition of appropriative water rights.

The duties of the Board in administering the appropriation of water are set forth in detail in Division 2, Part 2 of the Water Code. In brief, an appropriative right is initiated by an application; notice is given to persons who could be injured by the appropriation; protests may be filed which must be resolved either by negotiation or by hearings and decision of the Board; the application is either denied or approved (sometimes in part) and a permit is issued. The permittee is required to show diligence in perfecting his appropriation. Failure to demonstrate diligence may result in revocation of the permit. As soon as practicable after full use of water has been made the project is inspected and the facts regarding the appropriation and use of water are gathered. Following this, a license is issued confirming the right acquired by beneficial use.

Major Hearings and Decisions

In the period covered by this report, the Board held 104 days of hearings and participated in 47 days of field conferences under proceedings in lieu of hearing.

A summary of major hearings and decisions during the biennium follows.

On August 25, 1965, the Board issued Decision D 1226 upon reconsideration of Decision D 1114 issued March 14, 1963. The Board in the earlier decision had denied five applications of Tuolumne County Water District No. 2 and approved twelve applications of Calaveras County Water District to appropriate from North Fork Stanislaus River and its tributaries. By order of the Superior Court on July 24, 1964, the Board was directed to reconsider the first decision with respect to a proposal advanced by the Tuolumne District, but not supported by an application, for a project on the North Fork Stanislaus River. Accordingly, the Board reconsidered the Calaveras and Tuolumne proposals in their totality. In lieu of further hearing, procedure for the presentation of exhibits and statements was agreed upon by counsel for the parties. The Board in its decision found that the Calaveras plan would more fully develop the water resources of North Fork Stanislaus River and would best serve the public interest. However, the Board also concluded that permits issued to the Calaveras District should be subject to future depletion of streamflow to provide for the future requirements of the Tuolumne District service area.

Decision D 1235, adopted August 25, 1965, concerned conflicting applications—one by U. S. Navy to appropriate from Santa Margarita River and

one by DeLuz Heights Municipal Water District to appropriate from DeLuz Creek, a tributary of Santa Margarita River. The Board found that the project proposed by the Navy, which includes a 165,000 acre-foot reservoir, would conserve the most water and produce the greater over-all benefits.

In Decision D 1248, issued March 30, 1966, the Board reaffirmed its Decision D 1224 to authorize Richvale Irrigation District and three water districts to construct a 74 million-dollar water development project on Middle Fork Feather River for hydroelectric power generation and irrigation purposes. The Board had been petitioned to reconsider the earlier decision jointly by the State Department of Fish and Game, County of Plumas and Department of Water Resources. Issues raised by the petition were considered at a further hearing. Although reaffirming approval of the project, the later decision modified permit conditions to assure operation of the project as contemplated by Decision D 1224. The Board affirmed its earlier requirement that at the end of the project payout period of about 50 years, streamflows are to be increased in the lower reaches of the Middle Fork Canyon for improving and restoring the trout fishery, and net power revenues are thereafter to be shared with the County of Plumas.

On May 31, 1967, the Board issued Decision D 1275 granting permits to the State Department of Water Resources to divert and store surplus water from the Feather River and the Sacramento-San Joaquin Delta in the operation of the State Water Project. The decision was issued after a lengthy hearing at which all interested parties presented their views. The principal issue developed at the hearing concerned the quality of water to be maintained in the Sacramento-San Joaquin Delta to protect the users of water from that source. The Board protected the Delta water users by directing the Department to divert and store water only during the period from October 1 to July 1, and in April, May, and June only when the quality of water is better than 250 parts per million of chloride ion (salt) content measured at Blind Point, near Antioch Bridge. The Board reserved jurisdiction to revise the Delta water quality requirements within three years, when more information becomes available as the result of studies in progress by several Federal and State agencies. The decision, however, did not become final as requests for reconsideration were filed by several of the parties before the expiration of the 30-day period allowed. Action by the Board on the petitions for reconsideration was pending at the end of the biennium.

Exchange Contracts

The rapid growth of the State and the development and control of its water resources have greatly reduced the supply of water still available for appropriation. This is particularly true during the summer months on streams tributary to the Central Valley. The Board has not been authorizing diversion during the critical summer months in permits to appropriate water in this drainage basin. While this restrictive procedure may fulfill the duty of the Board to protect prior vested rights, it does not provide an orderly method whereby those in the areas of water origin may continue to take water during the low flow months. To remedy this, the Board has encouraged the concerned counties and other local agencies to purchase replacement water on an exchange basis from the U. S. Bureau of Reclamation or the State Department of Water Resources. The purchased water would be supplied to prior right users in areas that can be served from Federal or State storage facilities. This would allow water now being used under prior rights to be diverted

during the summer months for use on new lands in areas that cannot be served directly by the United States or the State. Thus, an orderly system of rights could be maintained for diversion of water to lands that cannot be served directly by these agencies, through issuance of permits made subject to the execution of the necessary contracts.

In June, 1967, a contract was signed between the United States Bureau of Reclamation and the Shasta County Water Agency providing for water service to the agency from the Central Valley Project. A unique feature of the contract is that water service to users who cannot divert from project facilities is to be by exchange.

Landowners in Shasta County not in a location to purchase and divert project water directly may contract with the Agency for water from tributaries to the Sacramento River. The Bureau of Reclamation will then replace in the river an equivalent amount from its reservoirs. Prior downstream rights on the Sacramento River and in the Delta will thus be protected.

This contract now allows the State Water Rights Board to approve applications in Shasta County for diversion during the summer months, subject only to the permittee purchasing replacement water from the Shasta County Water Agency. The permittee must not, of course, infringe on any prior rights that may exist on the tributary stream before it flows into the Sacramento River.

Other Trends in Appropriation of Water

Permits for storage reservoirs are being more heavily conditioned to alert the appropriator to his obligation to take positive action to see that his appropriation does not infringe on the prior rights of others. All reservoirs having capacities greater than 25 acre-feet, and many with less than this quantity, are being required by permit terms to have outlet pipes or other means to release water if necessary to satisfy downstream prior rights.

The Department of Fish and Game has been increasingly active in protesting applications which would adversely affect fishlife. Many of these applications are approved only after inclusion of permit terms requiring specific flows past the diversion works to the extent natural flow is available.

Protests to applications show an increasing concern with the effect of the proposed appropriation on the quality of water.

There has been a decreasing trend in the number of applications filed with the Board, as indicated in the bar chart at the end of this report. This has enabled the Board to exert additional effort in its investigating and licensing work. However, this trend may be reversed as more exchange contracts such as mentioned above are executed by local agencies.

Adjudication of Water Rights Program

The purpose of the adjudication program is to provide assistance to the courts in the determination of water rights. Two procedures are available: (1) court references wherein the Board is appointed referee in actions already before a court, and (2) statutory adjudications where a determination, which culminates in a comprehensive court decree, may be initiated directly with the Board upon petition by an affected water user. Only the court reference procedure is available for use in the adjudication of percolating ground water rights. Common objectives of both procedures are to minimize expense and delay in the adjudication of water rights and to make available to the court

and all parties the services of trained and unbiased specialists. It provides for an administrative screening of the issues, and presentation of the required facts along with a suggested physical and/or legal solution when desired. Direct expense of an adjudication is borne by the water users.

The additional work ordered in Upper Uvas Creek Reference, mentioned in the last report, has been completed. The statutory adjudication of rights to waters of Cow Creek system in Shasta County has been completed except for its final stages.

Recordation of Water Extractions and Diversions Program

Neither in court nor out can a fair or constructive determination of rights be made without knowledge of the physical facts. It is essential to know the common source of supply, the quantities of water available and used before just settlement can be reached. The purpose of the Board's recordation program is to provide a repository for such facts so that they will not be lost with time and will be available when needed.

Under this program, each person who extracts more than 25 acre-feet of ground water in any year in the Counties of Ventura, Los Angeles, San Bernardino and Riverside is required to file with the Board annual statements pertinent to such extractions. The State's cost of administering this program is reimbursed through fees paid by the water users.

Related to this program is the administration of Water Code Sections 1005.1 and 1005.2 authorizing the retention of ground water rights in eight counties of Southern California when extractions are reduced by use of water from an alternate nontributary source.

The Board has maintained records of annual extractions from an average of about 8,700 wells in Southern California as provided under Part 5, Division 2, of the Water Code. Under Water Code Sections 1005.1 and 1005.2 an average of about 50 water users have filed per year to protect their ground water rights from loss because of the use of in lieu supplies.

The trend has been to increase the opportunity of recording facts concerning water use throughout the State. (See discussion of the water inventory program.)

Inventory of Surface Water Diversions and Use Program

June 30, 1967, marked the close of the period within which statements were to be filed with the Board under the Statements of Water Diversion and Use statutes adopted in 1965. More than 3,100 statements were received.

In 1967, the law was amended to exclude several types of diversions which are already of record with the Board, or for which records can be readily obtained. Statements are not required for diversions included in watermaster reports to courts or reported in Department of Water Resources annual hydrologic data bulletins which include the Delta lowlands. Also, statements are not required to cover diversions from springs that do not flow off the property on which they are located. Diversions covered by application, permit or license continue to be exempt.

These statements are being integrated into the records retained by the Board for appropriation of water and will expand public knowledge of diversions of surface water. Prior to this water inventory law, diversions being made under riparian rights and under appropriative rights initiated before the effective date in 1914 of the Water Commission Act were largely unknown to any governmental agency concerned with the water resources of the State.

Program to Determine Depletions

The field program of measuring annual depletion of inflow to Monticello Reservoir on Putah Creek is nearing completion. Permits covering this reservoir provide for a reservation of a certain quantity of water for development upstream from the reservoir. This program, initiated in 1964, records the depletions of the reserved water for each year. The results of the study will help the Board prevent over-appropriation in the Putah Creek watershed.

Similar field programs may become necessary on other streams where such reservations are involved.

Training Program

The employees of the Board received in excess of 4,600 hours of on-the-job training in addition to their participation in extensive training after working hours. The on-the-job training consisted of 800 hours of training in the various phases of management, approximately 2,250 hours of technical and professional training in matters pertaining to water rights, and 1,630 hours of other training, including orientation, supervisory, and safety.

Data Processing

A program has been added to the data processing system that simplifies the preparation of water right licenses. Programs previously initiated consist of machine typing of notices of applications, revocation and cancellation orders, extension orders, monthly publicity, water right tabulations, and numerous form letters and summary sheets for internal control.

LITIGATION

On March 28, 1966, Reclamation District 2054 petitioned the Superior Court in and for the County of Sutter for a writ of mandamus seeking review of the Board's Decision D 1241 which approved an application to appropriate water from one of the District's drainage canals. On March 3, 1967, the court denied the petition and no appeal was taken from the judgment of the court.

On April 28, 1966, a petition for writ of mandate was filed in the Superior Court in and for the County of Plumas by the County of Plumas and others to obtain judicial review of the Board's Decision D 1248 approving applications of Richvale Irrigation District covering the District's Middle Fork Feather River Project. By stipulation of the parties, approved by the court on June 13, 1966, the matter was taken off calendar for setting at a later date to allow additional time for preparation of the record and the filing of briefs.

LEGISLATION

During the biennium, the Legislature enacted laws affecting the Board as follows: transferred the duties of the California Water Commission in regard to State filings for water rights to the Board; established a procedure for filing statements of diversion and use of water with the Board; revised requirements of notice in statutory adjudications; clarified the law covering judicial review of the Board's actions on petitions to make changes under applications, permits, and licenses, following revocation proceedings, and on requests for licenses to appropriate water; determined venue for court review of Board's action concerning projects with water diversions in more than one county; extended the right to petition for reconsideration before the Board; and provided for the inclusion in applications of information on fish and wildlife that may be affected by proposed appropriations.

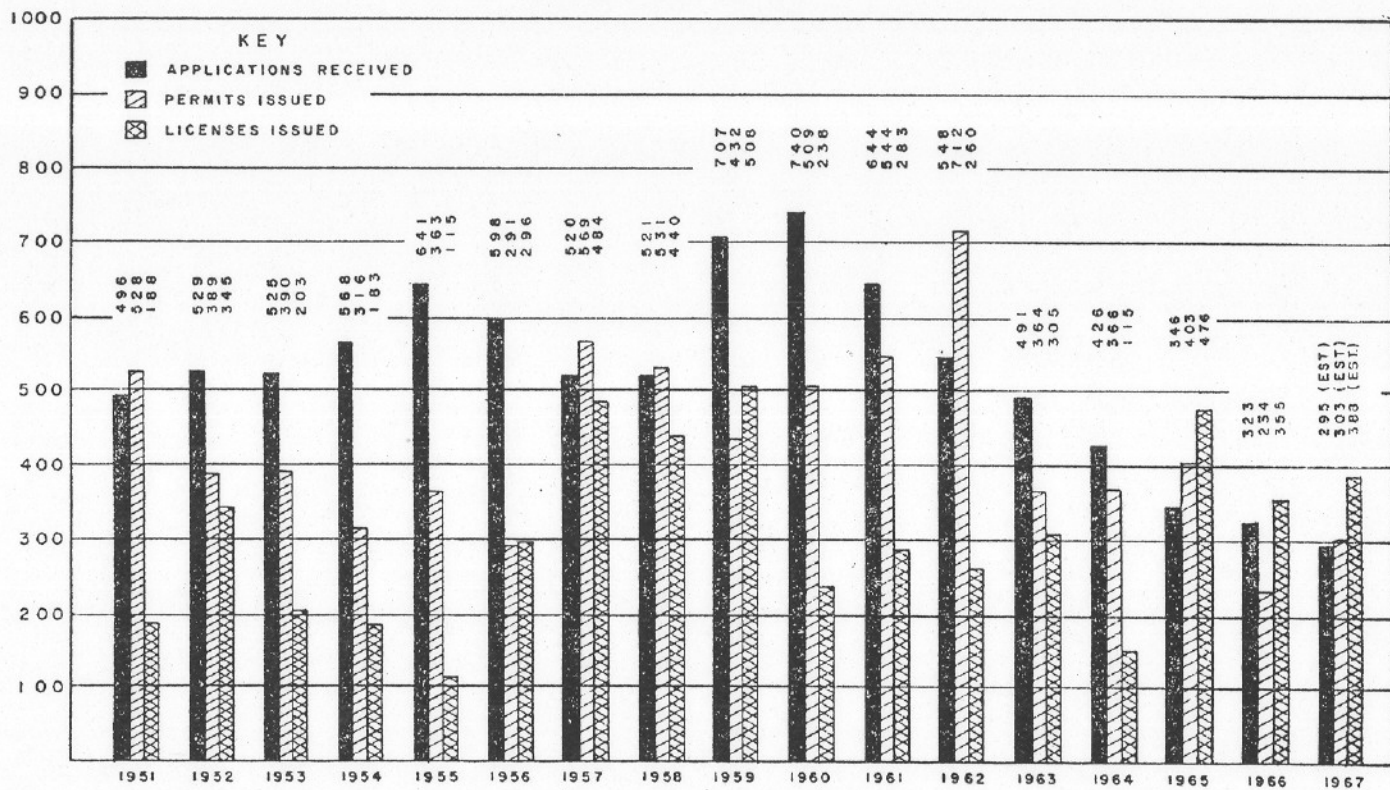
FEDERAL-STATE RELATIONSHIPS

The reservation principle, under which the U. S. Forest Service asserts that the State of California has no jurisdiction over appropriation of water on reserved National Forest land, has been clarified somewhat during the biennium. The Board now discourages individuals from filing applications to appropriate water when the entire project is located on reserved National Forest land. Such applicants are instead referred to the headquarters of the National Forest involved for permission to construct the development.

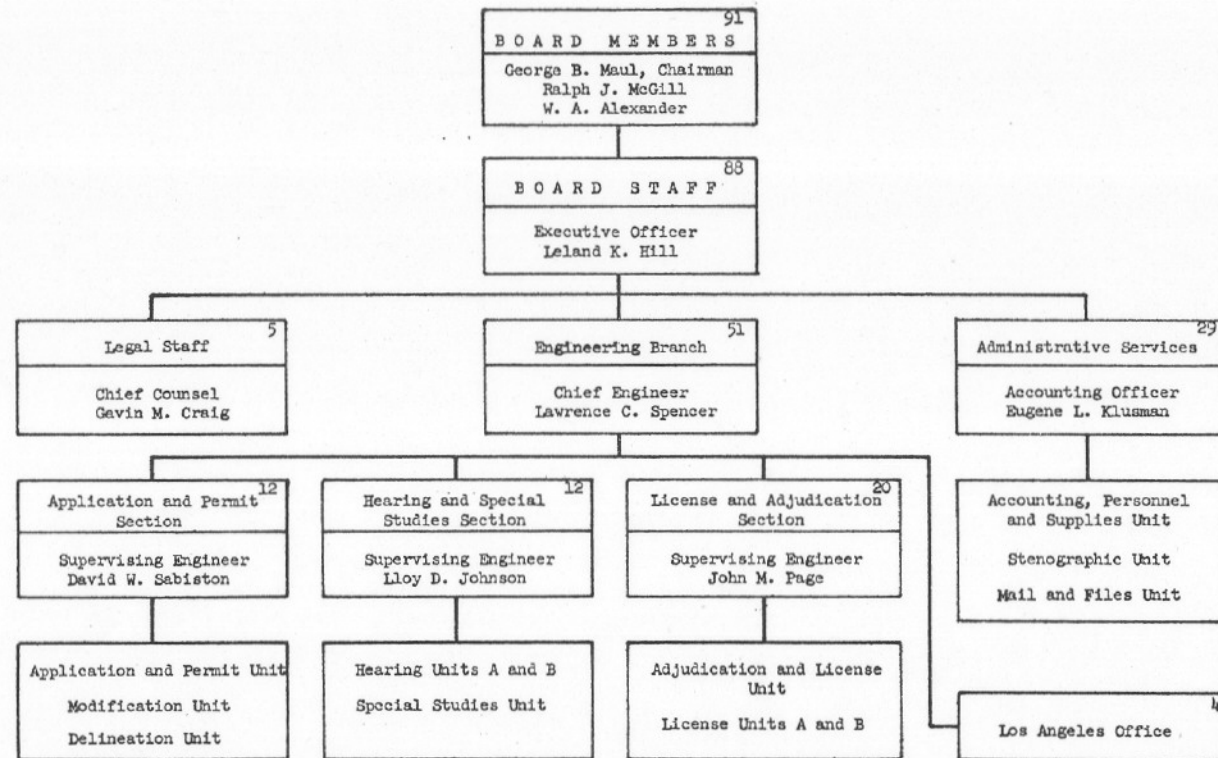
The National Forests are reportedly proceeding with preparation of written reports to the Board on existing and proposed water uses. However, only a few statements have been received.

The policy to be followed by the National Forests in initiating new water uses on reserved lands where these uses will conflict with existing downstream water uses under vested rights on private lands has not been completely defined.

APPLICATIONS RECEIVED, PERMITS AND LICENSES ISSUED
by
CALENDAR YEARS, 1951-1967



ORGANIZATION CHART - STATE WATER RIGHTS BOARD



Note: Number in corner of box represents full-time positions reporting through each level.

June 1967

